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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/981,402	10/17/2001	Yoshihiro Satoh	N32040200W	6789

7590 11/03/2003

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EXAMINER
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RICHARDS, N DREW

ART UNIT	PAPER NUMBER
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2815

DATE MAILED: 11/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/981,402

Applicant(s)

SATO, YOSHIHIRO

Examiner

N. Drew Richards

Art Unit

2815

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 17 October 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

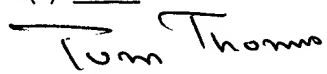
Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1,2 and 21-24.

Claim(s) withdrawn from consideration: 7-20.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

  
TOM THOMAS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800

Continuation of 2. NOTE: The limitation of the silicon nitride film having a portion sandwiched between the interlayer insulating film and the silicon substrate is a newly presented limitation that requires further search and/or consideration.

Continuation of 5. does NOT place the application in condition for allowance because: applicants arguments are not persuasive. First, with regard to claims 1 and 2, applicant argues that the nitride films 20 and 24 of the APA are single films and that the Examiner's interpretation of nitride films 20 and 24 being two separate films each is erroneous. This is not persuasive as a single silicon nitride film has the same structure as two silicon nitride films formed one on the other as silicon nitride films are amorphous and have no crystals or grain boundaries within the film. Thus, the single nitride film of the APA is structurally equal to the claimed two silicon nitride films and reads on the claims. Applicant supplied evidence that silicon nitride films may be crystalline and not amorphous. However, applicant has not claimed the silicon nitride films being crystalline nor submitted arguments or evidence that the claimed silicon nitride films are crystalline. Applicant's exhibit B shows that silicon nitride films may occasionally be crystalline but does not provide any evidence or reasoning that applicant's silicon nitride film is crystalline.

Second, applicant's arguments with regards to claims 21-24 are not persuasive. Applicant states that their previous arguments with regards to these claims remain unrebutted. The previous arguments were unrebutted because the final rejection of claims 21-24 in Paper No. 14 presented new rejections of claims 21-24. In Paper No. 14 the Examiner made every effort to address those arguments that were relevant to the new rejections. Further, the arguments presented herein combine the rejections of claim 21 and 23 and the interpretations of the APA used in the rejections. The rejections of claims 21 and 23 used two different interpretation of the APA. Thus, it is not clear how the arguments presented herein apply to the final rejection of claims 21 and 23 separately. Applicant's cited portions (citations 9 and 11-14) are from the previous Office action (Paper No. 12) and thus the arguments rebutting those rejections (from Paper No. 12) are moot in view of the new grounds of rejection (presented in Paper No. 14).